

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Assessment and Collection of Regulatory Fees for)	MD Docket No. 07-81
Fiscal Year 2007)	

COMMENTS OF NUVIO CORPORATION

Nuvio Corporation (“Nuvio”) submits that the Commission has the authority to collect regulatory fees from VoIP providers and hopes, whether or not a numbers or revenue centered approach is used, that the Commission will use this opportunity not only to extend the same obligations that apply to legacy carriers to VoIP carriers, but also extend the same rights and privileges to VoIP carriers.

I. THE COMMISSION HAS THE AUTHORITY TO COLLECT REGULATORY FEES FROM VOIP PROVIDERS.

The Commission is required to assess and collect regulatory fees to recover the costs of enforcement activities, as well as policy and rulemaking activities.¹ Recently the Commission has undertaken a number of policy and rulemaking activities related to VoIP providers. The Commission concluded that providers of VoIP services should contribute to the Universal

¹ See 47 U.S.C. § 159(a)(1)

Service Fund.² The Commission imposed a number of requirements regarding E911 service on VoIP providers.³ Finally, the Commission extended CALEA obligations to VoIP providers.⁴

II. WHILE EXTENDING REGULATORY FEE OBLIGATIONS TO VOIP PROVIDERS, THE COMMISSION SHOULD ALSO EXTEND SIMILAR PRIVILEGES TO VOIP PROVIDERS AS OTHER CARRIERS.

The Commission has continued to order that VoIP providers adhere to many of the obligations of legacy carriers, including E911, CALEA, USF, and now regulatory fee obligations. Nuvio urges the Commission to now extend similar rights and privileges to VoIP as are given to legacy carriers.

Nuvio urges the Commission to extend to VoIP providers:

- Interconnection rights to the PSTN (including trunk lines to PSAPs);
- Guarantees of non-discrimination;
- Access to numbering resources in the NANP; and
- Access to number portability resources.

VoIP providers are now in a position where they share many of the same obligations of legacy carriers, however do not have access to many of the same resources. Indeed, with many of

² See *Universal Service Contribution Obligations for Providers of Interconnected Voice Over Internet Protocol (VoIP) Service*, WC Docket No. 06-122, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7541, ¶46(2006)(*2006 Interim Contribution Methodology Order*).

³ See *IP-Enabled Services and E911 Requirements for IP-Enabled Service Providers, First Report and Order and Notice of Proposed Rulemaking*, 20 FCC Rcd 10245 (rel. Jun 3, 2005) at ¶¶ 48, 73 (*VoIP E911 Order*); see also 47 C.F.R. § 9.5(e).

⁴ See *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, ET Docket No. 04-295, Second Report and Order and Memorandum Opinion and Order, FCC 06-56 (released May 12, 2006), 21 FCC Rcd 5360 (2006) (*CALEA Second Report and Order*). See also 47 C.F.R. § 1.2000 et seq.

the obligations (such as E911) VoIP carriers lack rights and privileges specifically related to those obligations (such as interconnection rights to selective routers).

Nuvio applauds the efforts of the Commission to bring regulatory equality to VoIP providers and hope that this continues to reinforce that VoIP should be viewed as an exciting next generation technology instead of price based regulatory arbitrage. The Commission has noted that VoIP has developed in an environment free of many of the regulatory obligations applied to traditional telecommunication services.⁵ However, now that VoIP providers are obligated to many of the same programs as legacy telecommunication services, VoIP services can no longer be reasonably viewed as any type of regulatory arbitrage. The Commission can continue to stimulate the advancement of new and innovative VoIP technologies to the benefit of the public by giving VoIP providers the same tools to work with as the legacy carriers.

III. EITHER REGULATORY FEE ASSESSMENT APPROACH SHOULD ACCOUNT FOR THE UNIQUE NATURE OF VOIP

Nuvio supports the Commission adopting either a revenue or numbers based approach to regulatory fee assessment, however asks the Commission to take into account unique considerations of the VoIP in adopting the assessment method.

First, while traditional local exchange service or interstate telecommunications services are inextricably tied to a traditional telephone number, VoIP services can be provided without an active telephone number. Many VoIP services offer end users the ability to obtain several telephone numbers for use with the customer's VoIP service.

⁵ See *IP-Enables Services*, Notice of Proposed Rulemaking, 19 F.C.C.R. 4863, 4864 (2004).

For example, two customers with the same VoIP service may have no active telephone numbers, or dozens. The quantity of telephone numbers used by a VoIP customer may have little relation to the revenue generated or resources used by that customer.

Second, since VoIP providers do not have rights of interconnection or rights to numbering resources, they are required to obtain numbers from other carriers, often CLECs. In order to provide efficient allocation of numbers to VoIP end users, VoIP providers maintain large inventories of telephone numbers that are not “active”. If the Commission adopts a numbers based approach to fee assessment, Nuvio asks the Commission to make such assessment only upon telephone numbers that are active and assigned to an end-user, not numbers utilized by the VoIP provider.

IV. CONCLUSION

Nuvio agrees that the Commission has the authority to collect regulatory fees from VoIP providers. Nuvio urges the Commission, whether or not a numbers or revenue centered approach is used, to use this opportunity to affirm a path to extending to VoIP carriers the same rights and privileges available to legacy carriers.

Respectfully submitted,

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